



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,970	10/24/2003	Steven M. Blumenfeld	24983-0004001	6970
26171 7590 12/11/2009 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
MURDOUGH, JOSHUA A				
ART UNIT		PAPER NUMBER		
3621				
NOTIFICATION DATE		DELIVERY MODE		
12/11/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

ACTION

Acknowledgements

1. This action is responsive to Applicants' IDS received 24 November 2009.
2. This action has been assigned paper number 20091202 for reference purposes only.
3. Claims 1-16, 18, 19, 33, and 34 were previously allowed.

Information Disclosure Statement

4. The information disclosure statement ("IDS") filed 24 November 2009 fails to comply with 37 C.F.R. § 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(c). It has been placed in the application file, but the information referred to therein has not been considered.
5. Under 37 C.F.R. § 1.97 (e), Applicants are required to state either:
 - (1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
 - (2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, *and*, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement. [Emphasis added.]
6. Applicants' statement of "[e]ach item of information in this statement was not first cited in any communication from a foreign patent office in a counterpart application which was more than three months prior to the filing date of this statement" fails to meet either of the statements under 37 C.F.R. § 1.97 (e). In Applicants' statement, it appears that Applicants have reworded

the two sections and blended the two together. Because Applicants' statement fails to meet either statement, the IDS can not be considered.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.
8. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621